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Ken Boyce, Director
City of Carson Department of Public Works
701 East Carson Street
Carson, CA 90745

" AFTER THE FACT" CONDITIONAL CERTIFICATION FOR THE MACCO CHANNEL BOX CULVERT: DEL AMO BOULEVARD. OVERCROSSING AT I-405 PROJECT (CORPS' PROJECT NO. 2002-00729-JLB), DOMINGUEZ CHANNEL A TRIBUTARY TO THE PACIFIC OCEAN, CITY OF CARSON, LOS ANGELES COUNTY (FILE NO. 02-048)

Dear Mr. Boyce:

In accordance with § 3855 of Title 23 of the California Code of Regulations, an application for a Clean Water Act §401 Water Quality Certification shall be filed with the Regional Board Executive Officer in advance of any discharge. The California Regional Water Quality Control Board, Los Angeles Region (Regional Board), notes that your application request, on behalf of the City of Carson (the Applicant) includes "after the fact" activities that were conducted without the required prior certification. These activities involved the installation of a box culvert overcrossing within the Macco Channel. In recognition of our inability to appropriately characterize the pre-project conditions, we have increased the mitigation ratio component of your certification to ensure that we have addressed all impacts associated with your project. The Regional Board expects that all future violations will be avoided and that any impending projects involving a discharge will be fully authorized prior to commencement of work activities. Any future violations may require ratio of up to 7:1 and potential civil liabilities of \$10,000 per day.

Your application was deemed complete on March 15th, 2002.

I hereby certify that any discharge from the Macco Channel Box Culvert: Del Amo Blvd. Overcrossing at I-405 Project, as described in Attachment A, if performed in accordance with all applicable water quality objectives, prohibitions, and policies set forth in the *Water Quality Control Plan, Los Angeles Region* (1994), and in accordance with the conditions specified in Attachment B, will comply with the applicable water quality standards and other appropriate requirements, including the provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act.

The Applicant shall be liable civilly for any violations of this certification in accordance with the California Water Code. This certification does not eliminate the Applicant's responsibility to

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comply with any other applicable laws, requirements and/or permits. Finally, this certification does not foreclose the imposition of appropriate penalties for failure to obtain this certification prior to commencement of work.

Should you have questions concerning this certification action, please contact Jason Lambert, Section 401 Program, at (213) 576-5733.

[Original Signed By]

[May 10, 2002]

Dennis A. Dickerson
Executive Officer

Date

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ATTACHMENT A

Project Information File No. 02-048

1. Applicant: City of Carson
Attn: Ken Boyce
701 East Carson Street
Carson, CA 90745
Phone: (310) 952-1700 Fax: (310) 835-5749
2. Applicant's Agent: Gabriela Casarez
Sapphos Environmental, Inc.
133 Martin Alley
Pasadena, CA 91105
Phone: (626) 683-3547 Fax: (626) 683-3548
3. Project Name: Macco Channel Box culvert: Del Amo Boulevard
Overcrossing at I-405
4. Project Location: City of Carson, Los Angeles County
Township: T4S, Range: R13W; Section 6
Latitude: 33° 51' 10", Longitude: 118° 16' 12"
5. Type of Project: Double Box Culvert Construction
6. Project Description: *Purpose:* The purpose of the proposed project is to construct a double box culvert within the Macco Channel to be used for the overcrossing of the Del Amo Blvd.

Description: The channel is concrete lined channel with unvegetated soil above the concrete banks. Diversion of upstream and downstream flow away from the construction site will be implemented. The use of bulkheads, a sump pit, and french drain have been implemented to divert flow from the construction zone.
7. Federal Agency/Permit: U.S. Army Corps of Engineers
NWP No. 14 (Permit No. 2002-00729-JLB)
8. Other Required California Department of Fish and Game

ATTACHMENT A

Project Information File No. 02-048

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|--|---|
| Regulatory Approvals: | Streambed Alteration Agreement (Notification No. 5-2002-0117) |
| 9. California Environmental Quality Act (CEQA) Compliance: | The Engineering Department of the City of Carson approved the project's Negative Declaration on August 8, 1996. |
| 10. Receiving Water: | Dominguez Channel, an tributary to the Pacific Ocean (Hydrologic Unit No. 405.12) |
| 11. Designated Beneficial Uses: | MUN, REC-1, REC-2, WARM, WILD, and RARE |
| 12. Impacted Waters of the United States: | Non-wetland waters (concrete lined channel): 0.01 permanent acres and 0.009 temporary acres. |
| 13. Dredge Volume: | None |
| 14. Related Projects Implemented/to be Implemented by the Applicant: | <p>The Applicant has identified a related project carried concurrently.</p> <p>This activity is directly associated with the extension of Del Amo Blvd. over Dominguez Channel and I-405. This work activity was determined to be in compliance with the CEQA and NEPA by the lead agency following the approval of a Negative Declaration/ Finding of No Significant Impact on 8/8/96.</p> |
| 15. Avoidance/Minimization Activities: | <p>The Applicant has proposed to implement several Best Management Practices, including, but not limited to, the following:</p> <ul style="list-style-type: none">• A french drain will be installed to divert flow around in-channel work activity to a sump pit, downstream of work area, which will temporarily store water behind a sediment bulkhead;• Water in the sump pit will be pumped over the sediment |

ATTACHMENT A

Project Information File No. 02-048

bulkhead, as needed, into an area between the sediment and tidal bulkheads;

- This water will then be pumped downstream into the channel as needed, and
- The french drain, sump pit, and bulkhead will serve to maintain water quality in Macco Channel by trapping debris and sediment associated with construction activity, as well as the associated with normal nuisance flow in the channel.

16. Proposed Compensatory Mitigation:

The Applicant has proposed to enhance 0.02 acres of upland and riparian habitat (2:1 ratio) offsite.

See Attachment B Conditions of Certifications, Additional Conditions for modifications and additions to the above proposed compensatory mitigation.

ATTACHMENT B

Conditions of Certification File No. 02-048

STANDARD CONDITIONS

Pursuant to §3860 of Title 23 of the California Code of Regulations (23 CCR), the following three standard conditions shall apply to this project:

1. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to §13330 of the California Water Code and Article 6 (commencing with 23 CCR §3867).
2. This certification action is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to 23 CCR Subsection 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. Certification is conditioned upon total payment of any fee required pursuant to 23 CCR Chapter 28 and owed by the Applicant.

ADDITIONAL CONDITIONS

Pursuant to 23 CCR §3859(a), the Applicant shall comply with the following additional conditions:

1. The Applicant shall submit to this Regional Board copies of any other final permits and agreements required for this project, including, but not limited to, the U.S. Army Corps of Engineers' Section 404 Permit and the California Department of Fish and Game's Streambed Alteration Agreement. **These documents shall be submitted prior to any discharge to waters of the state.**
2. Fueling, lubrication, maintenance, operation, and storage of vehicles and equipment shall not result in a discharge or a threatened discharge to waters of the state. At no time shall the Applicant use any vehicle or equipment which leaks any substance that may impact water quality. Staging and storage areas for vehicles and equipment shall be located outside of waters of the state.
3. No construction material, spoils, debris, or any other substances associated with this project that may adversely impact water quality standards, shall be located in a manner which may result in a discharge or a threatened discharge to waters of the state.

ATTACHMENT B

Conditions of Certification File No. 02-048

4. The Applicant shall not conduct any construction activities within waters of the state during a rainfall event. The Applicant shall maintain a **five-day (5-day) clear weather forecast** before conducting any operations within waters of the state.
5. No activities shall involve wet excavations (i.e., no excavations shall occur below the seasonal high water table). A minimum **5-foot** buffer zone shall be maintained above the existing groundwater level. If construction or groundwater dewatering is proposed or anticipated, the Applicant shall file a **Report of Waste Discharge** to this Regional Board and obtain any necessary NPDES permits/Waste Discharge Requirements prior to discharging waste. Sufficient time should be allowed to obtain any such permits (generally 180 days). If groundwater is encountered without the benefit of appropriate permits, the Applicant shall cease all activities in the areas where groundwater is present, file a Report of Waste Discharge to this Regional Board, and obtain any necessary permits prior to discharging waste.
6. All surface waters, including ponded waters, shall be diverted away from areas undergoing grading, construction, excavation, vegetation removal, and/or any other activity which may result in a discharge to the receiving water. If surface water diversions are anticipated, the Applicant shall develop and submit a **Surface Water Diversion Plan** to this Regional Board. The plan shall include the proposed method and duration of diversion activities, erosion and sediment controls, and a map or drawing indicating the locations of diversion and discharge points. The plan shall be submitted prior to any surface water diversions. If surface flows are present, then upstream and downstream monitoring for pH, temperature, dissolved oxygen, turbidity, and total suspended solids shall be implemented. These constituents shall be monitored on a **daily** basis during the first week of diversion activities, and then on a **weekly** basis, thereafter, until the in-stream work is complete. Results of the analyses shall be submitted to this Regional Board by the **15th** day of each subsequent sampling month. A map or drawing indicating the locations of sampling points shall be included with each submittal. Diversion activities shall not result in the degradation of beneficial uses or exceedance of water quality objectives of the receiving waters. Any such violations may result in corrective and/or enforcement actions, including increased monitoring and sample collection.
7. The Applicant shall restore all areas of temporary disturbance which could result in a discharge or a threatened discharge to waters of the state. The Applicant shall implement appropriate Best Management Practices to control erosion and runoff from areas associated with this project.

ATTACHMENT B

Conditions of Certification File No. 02-048

8. The Applicant shall provide COMPENSATORY MITIGATION to offset the proposed temporal loss of **0.009 acres** waters of the United States by creating or restoring jurisdictional waters at a minimum 7:1 area replacement ratio (0.063 acres). The Applicant shall also provide compensatory mitigation for the proposed permanent impacts to **0.01 acres** of jurisdictional waters by creating or restoring jurisdictional waters at a minimum 7:1 area replacement ratio (0.07 acres). As an alternative, the Applicant may provide adequate funding to a third party organization for the creation or restoration of a total of 0.133 acres of jurisdictional waters. The location of the mitigation site shall be clearly identified on a map of suitable quality and shall be defined by latitude and longitude. This information shall be submitted to this Regional Board **within sixty (60) days of issuance of this certification** and shall include copies of any agreements made between the Applicant and a third party organization regarding compensatory mitigation efforts.
9. The Applicant shall submit to this Regional Board **Annual Monitoring Reports** documenting the success of all restoration and mitigation efforts, including, percent survival by plant species and percent cover. The reports shall include discussion of any monitoring activities and exotic plant control efforts. Representative photographs from designated stations shall be included in the reports. The reports shall be submitted by **January 1st** of each year for a period of **five (5) years** after planting.
10. All communications regarding this project and submitted to this Regional Board shall identify the Project File Number **02-048**. Submittals shall be sent to the attention of the Nonpoint Source Unit.
11. Any modifications of the proposed project may require submittal of a new Clean Water Act Section 401 Water Quality Certification application and appropriate filing fee.
12. *Enforcement:*
 - (a) In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under state law. For purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this certification.

ATTACHMENT B

Conditions of Certification File No. 02-048

- (b) In response to a suspected violation of any condition of this certification, the State Water Resources Control Board (SWRCB) may require the holder of any permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring reports the SWRCB deems appropriate, provided that the burden, including costs, of the reports shall be a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
- (c) In response to any violation of the conditions of this certification, the SWRCB may add to or modify the conditions of this certification as appropriate to ensure compliance.